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HUNTON & WILLIAMS LLP  
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OFFICE OF PETITIONS

In re Patent No. 7,741,080  
Issued: June 22, 2010  
Application No. 10/594,969  
Filed: March 14, 2007  
Attorney Docket No. 68600.000002

DECISION ON REQUEST  
FOR RECONSIDERATION  
OF PATENT TERM ADJUSTMENT

This is a decision on the "RESPONSE TO DECISION ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1,705(d)", filed September 30, 2010. Applicants request that the patent term adjustment under 35 U.S.C. 154(b) be corrected from two hundred eighty five (285) days to two hundred eighty-eight (288) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is DISMISSED.

On August 13, 2010, patentee filed a REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d) arguing that the patent term adjustment period should be 461 days and not 285 as indicated on the patent . On August 30, 2010, the Office mailed a decision dismissing the petition under 37 CFR 1.705(d) on the basis that delay pursuant to 37 CFR 1.702(b) is 263 days based on a national stage commencement date under 35 U.S.C. 371(f) of October 2, 2009.

Comes now petitioner arguing that the number of days from the beginning of the "B period" (September 30, 2009, i.e., three years from the 371(b) date) to the end of the "B period" (June 22, 2010, i.e., the day the '080 patent issued) is 266 days.

Patentees argument has been considered but is not persuasive.

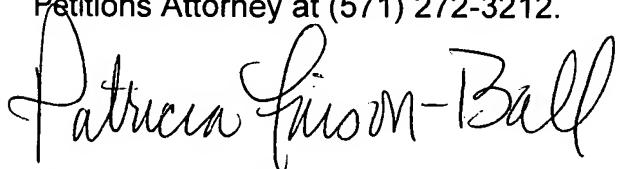
Patentees are advised that in an international application, the over 3 year pendency period is based on the failure of the Office to issue a patent within three years after the national stage commenced under 35 U.S.C. 371(b) or (f). See 1.702(b). In this instance, the national stage commencement date is Monday, October 2, 2006 (not September 30, 2006, the date used by patentees for this calculation). The priority date of this application is March 31, 2004. As the requirements for early commencement were not met, the national stage commenced in this application at the end of the thirty-

month period. Further, as the expiration of the 30-month period pursuant to 35 U.S.C. 371(b) fell on a Sunday, the period expired on the subsequent business day. See PCT Rule 80.5. Accordingly, the commencement date is Monday, October 2, 2006. Thus, the over 3 year period is 263 days, counting the number of days beginning on October 2, 2006 and ending on June 22, 2010, the date of issuance of the patent.

In view thereof, the patent term adjustment indicated in the patent is properly reflected.

As such, the patent term adjustment is 285 days as previously indicated. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

Telephone inquiries specific to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.



Patricia Faison-Ball  
Senior Petitions Attorney  
Office of Petitions